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Applicant firmly believes the above amendments and the following comments will convince the Examiner that the rejection of the pending claims under §102 and §103 in view of the cited references should be reconsidered and withdrawn. In particular, applicant would like to direct the Examiner's attention to applicant's novel idea for a portable workstation to support, for example, a laptop computer while traveling or working from home. Applicant is unaware of anything like this in the prior art, and even the references relied on by the Examiner do not suggest the applicant's novel invention. In short, applicant respectfully submits that the Examiner's reliance on Simmons U.S. Patent No. 1,675,060 ("Simmons"), Maxwell U.S. Patent No. 4,437,411 ("Maxwell"), Patterson 5,598,786 U.S. Patent No. ("Patterson"), and Drake U.S. Patent No. 6,044,758 ("Drake") is misplaced -- as applicant's

1 invention is very different from what is disclosed in the
2 cited art.

3 Initially, the Examiner rejected claims 1, 7, 12 and
4 16 under 35 U.S.C. §102(b) as being anticipated by Simmons.
5 Applicant respectfully submits that these claims are not
6 anticipated by Simmons. It is black letter law that to be
7 anticipatory, a prior art reference must disclose each and
8 every element of the claim or claims at issue -- Simmons
9 falls short of this requirement.

10 Briefly, Simmons discloses a copy-holder for typists
11 made from a single blank of foldable cardboard (Simmons,
12 claim 3, col. 2 lns. 29-30), comprising, *inter alia*, a
13 raised lip portion 8 and two side walls 4 having triangular
14 form (Simmons, col. 1, lns. 43-44) which do not allow the
15 copy-holder surface to be raised above the lowest point of
16 the structure. Applicant respectfully submits that this is
17 very different from the present invention. That is, as is
18 readily apparent from a careful review of Simmons, nowhere
19 does Simmons teach or suggest a portable workstation
20 comprising legs or leg assemblies foldably coupled to a
21 back surface for supporting a work surface, and to enable
22 the workstation to be compactly folded for ease of
23 transport and storage. In addition, Simmons does not
24 disclosed having a raised top (or work) surface. While the

1 Examiner correctly points out that Simmons discloses raised
2 portion 8, this is very different from the claimed raised
3 top surface. That is, Simmons' raised portion 8 is merely
4 a lip to prevent the paper from slipping off the holder.
5 This is very different from the claimed invention, which
6 comprises, *inter alia*, first and second legs or leg
7 assemblies foldably coupled to a back support or surface to
8 provide a conveniently portable workstation having a raised
9 work surface. Thus, Simmons fails to teach or disclose
10 every element of the claimed invention of at least claims
11 1, 7, 12 and 16, and the Examiner's rejection under §102(b)
12 in view of Simmons should be reconsidered and withdrawn.

13 Next, the Examiner rejected claims 2-6, 15 and 19
14 under 35 U.S.C. §103(a) as being unpatentable over Simmons,
15 claim 8 under 35 U.S.C. §103(a) as being unpatentable over
16 Simmons and further in view of Maxwell, claims 9 and 11
17 under 35 U.S.C. §103(a) as being unpatentable over Simmons
18 and further in view of Patterson, and claims 10, 13-14 and
19 17 under 35 U.S.C. §103(a) as being unpatentable over
20 Simmons and further in view of Drake. Initially, applicant
21 has cancelled claims 2, 4, 6, 10-11, 14 and 19, the the
22 rejections as to those claims are now moot. Further,
23 applicant respectfully submits that amended claims 3, 5, 8-
24 9, 12-13, 15 and 17-19 (claim 18 is included even though no

1 specific rejection was made as to claim 18) are not
2 rendered obvious by the cited references, either alone or
3 in combination. Applicant further submits that, with the
4 benefit of the teachings of applicant's specification, the
5 Examiner's rejection could only be the result of hindsight
6 reconstruction of the applicants' invention. Moreover,
7 even if the cited references were properly combined, such
8 combination still would not teach all of the novel and non-
9 obvious features of the present invention as claimed.

10 Initially, as discussed above, applicant disagrees
11 with the Examiner's opinion as to the teachings of Simmons.
12 In particular, nowhere does Simmons teach or suggest a
13 portable workstation comprising legs or leg assemblies
14 foldably coupled to a back surface for supporting a work
15 surface, and to enable the workstation to be compactly
16 folded for ease of transport and storage, nor a raised top
17 (or work) surface. Clearly, this is very different from
18 the claimed invention. More over, the device according to
19 Simmons is specifically designed for use on top of, and in
20 fact requires, a table or desk -- it cannot be used across
21 a user's lap.

22 Similarly, none of Maxwell, Drake and Patterson teach
23 or suggest a portable workstation comprising legs or leg
24 assemblies foldably coupled to a back surface for

1 supporting a raised top work surface, and which enable the
2 workstation to be compactly folded for ease of transport
3 and storage. Specifically, the desks of Maxwell, Drake and
4 Patterson have no back surfaces. Therefore, applicant
5 submits that the rejection of claims 3, 5, 8-9, 12-13, 15
6 and 17-19 as being unpatentable over Simmons alone or in
7 combination with Maxwell, Patterson or Drake is improper
8 and should be reconsidered and withdrawn.

9 Further, the applicant respectfully points out that,
10 standing on their own, the cited references provide no
11 justification for the combination asserted by the Examiner.
12 "Obviousness cannot be established by combining the
13 teachings of the prior art to produce the claimed
14 invention, absent some teaching or suggestion supporting
15 the combination. Under section 103, teachings of
16 references can be combined only if there is some suggestion
17 or incentive to do so." *ACS Hospital Systems Inc. v.*
18 *Montefiore Hospital*, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929,
19 933 (Fed. Cir. 1984) (emphasis in original). The cited
20 references provide no such suggestion or incentive for the
21 combination suggested by the Examiner. Therefore, the
22 obviousness rejection could only be the result of a
23 hindsight view with the benefit of the applicant's
24 specification. However,

1 "To draw on hindsight knowledge of the
2 patented invention, when the prior art does not
3 contain or suggest that knowledge, is to use the
4 invention as a template for its own
5 reconstruction -- an illogical and inappropriate
6 process by which to determine patentability. The
7 invention must be viewed not after the blueprint
8 has been drawn by the inventor, but as it would
9 have been perceived in the state of the art that
10 existed at the time the invention was
11 made." (citations omitted) *Sesonics v. Aerosonic*
12 *Corp.*, 38 U.S.P.Q. 2d. 1551, 1554 (1996).

13 In addition, the combination or expansion advanced by
14 the Examiner is not legally proper -- on reconsideration
15 the Examiner will undoubtedly recognize that such a
16 position is merely an "obvious to try" argument. The
17 disclosure in the specification and claims of Simmons,
18 Maxwell, Patterson and Drake do not reveal any functional
19 or design choices that could possibly include that of the
20 applicant's invention. Indeed, Simmons merely discloses a
21 cardboard copy-holder for typists to support documents
22 being read during typing. Nothing in Simmons discloses or
23 even suggests use as a portable desk or workstation. Thus,
24 it would not have been obvious to combine such a reference
25 with desk references. Accordingly, it was not obvious to
26 combine Simmons with any of Maxwell, Patterson or Drake to
27 arrive at the present invention. At best it might be
28 obvious to try such a combination. Of course, "obvious to
29 try" is not the standard for obviousness under 35 U.S.C.
30 §103. *Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 231

1 U.S.P.Q. 81, 91 (Fed. Cir. 1986).

2 Under the circumstances, we respectfully submit that
3 the Examiner has succumbed to the "strong temptation to
4 rely on hindsight." *Orthopedic Equipment Co. v. United*
5 *States*, 702 F.2d 1005, 1012, 217 U.S.P.Q. 193, 199 (Fed.
6 Cir. 1983):

7 "It is wrong to use the patent in suit as a
8 guide through the maze of prior art references,
9 combining the right references in the right way
10 so as to achieve the result of the claim in suit.
11 Monday morning quarter backing is quite improper
12 when resolving the question of non-obviousness in
13 a court of law." *Id.*

14 Applicant submits that the only "motivation" for the
15 Examiner's expansion or combination of the references is
16 provided by the teachings of applicant's own disclosure.
17 No such motivation is provided by the references
18 themselves.

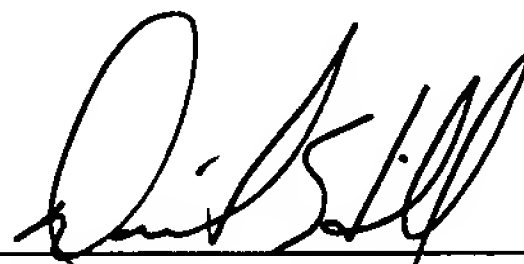
19 Therefore, as is evidenced by the above amendments and
20 remarks, the present invention, for the first time,
21 discloses a portable workstation comprising a raised top
22 surface that utilizes first and second leg assemblies
23 foldably coupled to a back support surface specifically
24 constructed to raise said top surface, as well as to allow
25 for the workstation to be compactly folded for storage and
26 transportation. An apparatus such as this is neither
27 taught nor suggested anywhere in the prior art, including

1 Simmons, Maxwell, Patterson and Drake.

2
3 CONCLUSION

4 In view of the foregoing, applicant respectfully submits
5 that the invention represents a patentable contribution to
6 the art and the application is now in condition for
7 allowance. Early and favorable action is accordingly
8 solicited.

Respectfully submitted,



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